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Interim Co-Lead Counsel for Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**AMENDED DECLARATION OF BRENDAN P.
GLACKIN IN SUPPORT OF PLAINTIFFS'
ADMINISTRATIVE MOTION FOR ORDER
COMPELLING DEFENDANTS TO COMPLY
WITH CIVIL LOCAL RULES 7-3(A) AND 3-
4(C)(2)**

I, Brendan Glackin, declare:

1. I am a partner in the law firm of Lieff, Cabraser, Heimann & Bernstein, LLP, a member of the State Bar of California, and am admitted to practice before the United States District Court for the Northern District of California. I am one of the counsel for the Plaintiffs in

1 this action. I make this declaration based on my own personal knowledge. If called upon to
2 testify, I could and would testify competently to the truth of the matters stated herein.

3 2. On November 14, 2012, I and several colleagues met and conferred by telephone
4 with Michael Tubach for Apple and Frank Hinman for Intel regarding Defendants' Motion to
5 Strike the Report of Dr. Edward E. Leamer. I advised opposing counsel that their motion to strike
6 was a procedurally improper attempt to expand their page limitations in their opposition to
7 Plaintiffs' Motion for Class Certification and requested that it be withdrawn. Mr. Hinman
8 disagreed and stated Defendants had envisioned that Plaintiffs would want to file a consolidated
9 opposition with their reply in support of class certification, to which Defendants would file a
10 further reply. We rejected that approach. Mr. Hinman stated that Defendants "could not have
11 known" that they would want to move to strike Dr. Leamer's report at the time the parties agreed
12 to the briefing schedule with the Court. He further stated that the motion was proper under *Ellis*
13 *v. Costco Wholesale Corporation*, Case No. 04-3341 (N.D. Cal.). On November 15, 2012, they
14 advised me that Defendants would not agree to withdraw their motion to strike. They made a
15 different scheduling proposal, specifically that Plaintiffs would file their opposition to the motion
16 to strike on December 3, 2012, and Defendants would file a reply on December 10, 2012. We did
17 not agree.

18 3. The parties also met and conferred on November 14, 2012 regarding the
19 Garamond font used in Defendants' opposition to Plaintiffs' Motion for Class Certification. I
20 advised opposing counsel that their brief did not comply with Local Rule 3-4(c)(2). Mr. Tubach
21 claimed to be the primary author of the brief. He denied using Garamond font to avoid page
22 limits but did not explain how Garamond came to be the font for the brief when Times New
23 Roman had been used on every other filing made. He and Mr. Hinman stated that Defendants
24 would not agree to withdraw their opposition brief on this basis.

25 4. On November 13, 2012, I instructed a professional word processor to create a
26 version of Defendants' opposition brief, omitting tables, identical in all respects to the original,
27 which can be accomplished by simple text conversion. The word processor then converted the
28

1 font of the document to Times New Roman. The resulting document was over 26.5 pages of text.
2 A true and correct copy of this document is attached hereto as Exhibit A.

3 5. Attached hereto as Exhibit B is a true and correct copy of a sequence of forum
4 postings I retrieved from The Chronicle of Higher Education regarding the use of Garamond font.

5 I declare under penalty of perjury under the laws of the United States that the foregoing is
6 true and correct.

7 Executed this 16th day of November, 2012, in San Francisco, California.

8
9 /s/ Brendan P. Glackin

10 Brendan P. Glackin
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